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09/856,745	09/24/2001	Mark G Luehrmann	8016-547	3350

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EXAMINER

VAN PELT, BRADLEY J

ART UNIT

PAPER NUMBER

3682

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/856,745
Filing Date: September 24, 2001
Appellant(s): LUEHRMANN ET AL.

James M. Durlacher
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 20, 2005.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Claimed Subject Matter*

The summary of invention contained in the brief is correct.

(6) *Grounds of Rejection*

The appellant's statement of the grounds of rejection in the brief is correct. Claims 26-35 are rejected under 35 U.S.C. 103(a). This rejection is set forth in a prior Office Action, mailed on October 26, 2004.

(7) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) *Response to Argument*

(A) The Combination of Justinien et al. and Fangman Creates the Claimed Invention.

The appellant alleges that the Examiner wants to totally eliminate the ring 14 from the Justinien et al. structure. This is not the case. The office action mailed on October 26, 2004 sets forth that Justinien et al. does not show the ring is integral with the connecting rod, then relies on Fangman for the simple proposition that forming parts, such as a ring and a connecting rod, integral is well known in the art. The Examiner's position is that forming the profiled bore integral with the connecting rod would have been obvious to one of ordinary skill in the art at the time the invention was made in view of the teachings of Fangman that such an arrangement decreases the number of parts, thereby decreasing the amount of assembly required to manufacture the device.

The appellant further argues that the Fangman reference does not disclose a "bore," since the bore of Fangman is a non-cylindrical "aperture 22." The appellant attempts to define "bore" as "a drilled hole." In actuality Fangman discloses a drilled hole or "bore" in prior art Fig. 4. See column 2, lines 1-2, "[r]eferring to FIG. 4, there is shown a piston 41 and a rod 43 connected by a round pin 4." Clearly the bore located in the rod 43 is a round hole, which constitutes a drilled hole.

Furthermore, the appellant's definition of a "bore," as "a drilled hole," is totally contradictory to the appellant's specification, since the appellant's "bore" is also not a drilled hole (see Figs. 10 and 11). Appellant's bore is profiled at the ends and cannot be formed by a simple drilling operation.

(B) The Examiner's Interpretation of the Justinien et al. Patent in Terms of "Rods 8" and the Profiled Bore Sections Is Correct.

The appellant argues that in Justinien et al. there is no single piston pin that is constructed and arranged to connect together the piston and the connecting rod. Justinien et al. discloses one pin, see column 3, lines 9-11, "the elastic pin is constituted by a plurality of superimposed elastic rods having preferably a round cross section." The fact that the appellant claims "a piston pin" does not preclude several components from constituting a singular pin. Regardless, the appellant does not claim "a single piston pin" or only one pin. The claim does not preclude the possibility of one the rods 8 constituting the piston pin. Therefore, both the elastic pin, which is formed by the plurality of rods 8, and one of the rods 8 anticipate the limitation "a piston pin."

The appellant then argues that the claim language is singular with respect to the resulting pin deflection. Again Justinien et al. discloses one pin that deflects. Justinien et al. sets forth "[t]he outer ends of the peripheral rods 8 are centrally fitted inside the bores of rings 11." In other words, the rings 11 hold the rods 8 together forming one pin that deflects (see column 3, lines 35-43). Again, the claim language is not singular. The claim does not preclude the possibility of one the rods 8 constituting the piston pin, which has a single pin deflection. Thus the Justinien et al. reference anticipates the limitations "a piston pin . . . resulting in piston pin deflection."

(C) The Examiner's Contention That There Is Motivation To Combine the Justinien et al. Patent and the Fangman Patent Is Correct.

The appellant argues that there is no motivation to combine the Justinien et al. and the Fangman references to arrive at the invention. However, forming the profiled bore integral with the connecting rod would have been obvious to one of ordinary skill in the art at the time the


Art Unit: 3682


invention was made in view of the teachings of Fangman that such an arrangement decreases the number of parts. This will make assembly much easier, because fewer parts will need to be assembled to form the piston rod assembly.



Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the bushing and the connecting rod as one piece, since it has been held that forming in one piece article which has formerly been formed in two pieces and put together involves only routine skill in the art. Howard v. Detroit Stove Works, 150 U.S. 164 (1893).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

BJVP 
August 3, 2005


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